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Attorneys for Defendant
WITTKE WASTE EQUIPMENT.

IN THE UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO

RAYMOND MARIOLLE,

Plaintiff,

vs.

VOLVO GROUP NORTH AMERICA,
INC.; CONSOLIDATED METCO, INC.;
AMSTED INDUSTRIES, INC.; WITTKE
WASTE EQUIPMENT, LABRIE
ENVIRONMENTAL GROUP, FEDERAL
SIGNAL CORPORATION, and DOES 1
through 25, inclusive,

Defendants.

CASE NO. C-09-1209 MMC (MEJ)

**DEFENDANT WITTKE WASTE
EQUIPMENT’S NOTICE OF APPEAL TO
THE UNITED STATES COURT OF
APPEALS FOR THE NINTH CIRCUIT**

Notice is given that Wittke Waste Equipment (“Wittke”), defendant is the above-named case, hereby appeals to the United States Court of Appeals for the Ninth Circuit from the decisions and orders and judgments of the district court, entered in this action on May 21, 2012 (Docket #252) and September 4, 2012, (Docket #278) (collectively, “the Judgments”)¹ and from any and all adverse rulings or interlocutory orders, judgments, decrees, decisions, rulings, and opinions that

¹ Wittke does not believe that the judgment entered on September 4, 2012, is final under Federal Rule of Civil Procedure 54(b) because it does not dispose of the Mariolles’ claims against Defendants Labrie Environmental Group and Federal Signal Corporation. Given, however, that the district court has indicated on the docket that this matter is closed, Wittke has filed this notice of appeal to ensure that it preserves its right to seek redress before the Ninth Circuit. In addition, Labrie and Federal Signal have filed a motion for amended judgment before the district court that if granted would result in a final appealable judgment for all parties (Docket #279).

1 merged into and became part of the Judgments, that shaped the Judgments, that are related to the
2 Judgments, that are incorporated in, antecedent to, or ancillary to the Judgments, and/or upon
3 which the Judgments are based; and from the Court's orders: denying Wittke's Renewed Motion
4 for Judgment as a Matter of Law, entered July 30, 2012 and September 4, 2012 (Docket #272 &
5 #277), and denying Wittke's Motion for a New Trial or Remittitur, entered September 4, 2012
6 (Docket #277).

7 DATED: October 3, 2012

BRADLEY, CURLEY, ASIANO,
BARRABEE, ABEL & KOWALSKI, P.C.

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10 By: /s/ Michael A. King
11 Michael A. King
12 Attorneys for Defendant
WITTKE WASTE EQUIPMENT
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